

## § 21.7624

## 38 CFR Ch. I (7–1–04 Edition)

(vii) An enrollment in a course offered under contract for which VA approval is prohibited by § 21.4252(m).

(Authority: 10 U.S.C. 16131(c), 16136(b); 38 U.S.C. 3672(a), 3676, 3680(a), 3680A(f), 3680A(g); § 642, Public Law 101–189, 103 Stat. 1458)

[53 FR 34740, Sept. 8, 1988, as amended at 61 FR 20729, May 8, 1996; 61 FR 29304, June 10, 1996; 62 FR 55762, Oct. 28, 1997; 65 FR 81743, Dec. 27, 2000]

### § 21.7624 Overcharges and restrictions on enrollments.

(a) *Overcharges.* VA may disapprove an educational institution for further enrollments when the educational institution charges or receives from a reservist tuition and fees that exceed the established charges which the educational institution requires from similarly circumstanced nonreservists enrolled in the same course.

(Authority: 10 U.S.C. 2136; 38 U.S.C. 3690; sec. 705(a)(1), Pub. L. 98–525, 98 Stat. 2565, 2567; secs. 642 (c), (d), 645(a)(1), Pub. L. 101–189, 103 Stat. 1457–1458)

(b) *Restriction on enrollments.* The provisions of § 21.4210(b) apply to any determination by VA as to whether to impose restrictions on approval of enrollments and whether to discontinue payments to reservists already enrolled at an educational institution.

(Authority: 10 U.S.C. 2136; 38 U.S.C. 3690(b); sec. 705(a)(1), Pub. L. 98–525, 98 Stat. 2565, 2567; secs. 642 (c), (d), 645(a)(1), Pub. L. 101–189, 103 Stat. 1457–1458)

[61 FR 29304, June 10, 1996, as amended at 63 FR 35837, July 1, 1998]

#### PAYMENTS—EDUCATIONAL ASSISTANCE

### § 21.7630 Educational assistance.

VA will pay educational assistance pursuant to 10 U.S.C. chapter 1606 to an eligible reservist while he or she is pursuing approved courses in a program of education at the rates specified in § 21.7636 and § 21.7639.

(Authority: 10 U.S.C. 16131(b); Pub. L. 98–525)

[53 FR 34740, Sept. 8, 1988, as amended at 61 FR 20729, May 8, 1996]

### § 21.7631 Commencing dates.

VA will determine the commencing date of an award or increased award of

educational assistance under this section. When more than one paragraph in this section applies, VA will award educational assistance using the latest of the applicable commencing dates.

(a) *Entrance or reentrance including change of program or educational institution.* When an eligible reservist enters or reenters into training (including a reentrance following a change of program or educational institution), the commencing date of his or her award of educational assistance will be determined as follows:

(1) If the award is the first award of educational assistance for the program of education the reservist is pursuing, the commencing date of the award of educational assistance is the latest of:

(i) The date the educational institution certifies under paragraph (b) or (c) of this section;

(ii) One year before the date of claim as determined by § 21.1029(b);

(iii) The effective date of the approval of the course, or one year before the date VA receives the approval notice whichever is later; or

(2) If the award is the second or subsequent award of educational assistance for the program of education the reservist is pursuing, the effective date of the award of educational assistance is the later of—

(i) The date the educational institution certifies under paragraph (b) or (c) of this section; or

(ii) The effective date of the approval of the course, or one year before the date VA receives the approval notice, whichever is later.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3672, 5103)

(b) *Certification by educational institution—course or subject leads to a standard college degree.* (1) When a student enrolls in a course offered by independent study, the commencing date of the award or increased award of educational assistance will be the date the student began pursuit of the course according to the regularly established practices of the educational institution.

(2) When a student enrolls in a resident course or subject, the commencing date of the award will be the date of reporting provided that—

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(i) The published standards of the school require the student to register before reporting.

(ii) The published standards of the school require the student to report no more than 14 days before the first scheduled date of classes for the term, quarter or semester for which the student has registered, and

(iii) The first scheduled class for the course or subject in which the student is enrolled begins during the calendar week when, according to the school's academic calendar, classes are generally scheduled to commence for the term.

(3) When a student enrolls in a resident course or subject whose first scheduled class begins after the calendar week when, according to the school's academic calendar, classes are scheduled to commence for the term, quarter, or semester, the commencing date of the award or increased award of educational assistance allowance will be the actual date of the first class scheduled for the particular course or subject.

(4) When a student enrolls in a resident course or subject and neither the provisions of paragraph (b)(2) nor (b)(3) of this section apply to the enrollment, the commencing date of the award or increased award of educational assistance will be the first scheduled date of classes for the term, quarter, or semester in which the student is enrolled.

(Authority: 10 U.S.C. 16136(b)).

(c) *Certification by educational institution—course does not lead to a standard college degree.* (1) When a reservist enrolls in a course which does not lead to a standard college degree and which is offered in residence, the commencing date of the award of educational assistance will be as stated in paragraph (b) of this section.

(2) When a reservist enrolls in a course which is offered by correspondence, the commencing date of the award of educational assistance shall be the later of—

(i) The date the first lesson was sent, or

(ii) The date of affirmance in accordance with 38 U.S.C. 3686.

(3) When a reservist enrolls in a program of apprenticeship or other on-job

training, the commencing date of the award of educational assistance shall be the first date of employment in the training position.

(Authority: 10 U.S.C. 16136(b))

(d) *Liberalizing laws and VA issues.* When a liberalizing law or VA issue affects the commencing date of a reservist's award of educational assistance, that commencing date shall be in accordance with facts found, but not earlier than the effective date of the act or administrative issue.

(Authority: 38 U.S.C. 5112(b), 5113; Pub. L. 98-525)

(e) *Individuals in a penal institution.* If a reservist is paid a reduced rate of educational assistance under §21.7639 (d), (e), (f), (g) and (h) of this section, the rate will be increased or assistance will commence effective the earlier of the following dates:

(1) The date the tuition and fees are no longer being paid under another Federal program or a State or local program, or

(2) The date of the release from the prison or jail.

(Authority: 10 U.S.C. 16136(b), 38 U.S.C. 3482(g); Pub. L. 98-525)

(f) [Reserved]

(g) *Increase ("kicker") in amount payable.* If a reservist is entitled to an increase ("kicker") in the monthly rate of educational assistance because he or she has met the requirements of §21.7636(b), the effective date of that increase ("kicker") will be the latest of the following dates:

(1) The commencing date of the reservist's award as determined by paragraphs (a) through (g) of this section; or

(2) The first date on which the reservist is entitled to the increase ("kicker") as determined by the Secretary of the military department concerned; or

(3) February 10, 1996.

(Authority: 10 U.S.C. 16131)

[53 FR 34740, Sept. 8, 1988, as amended at 61 FR 11311, Mar. 20, 1996; 61 FR 29304, June 10, 1996; 62 FR 55520, Oct. 27, 1997; 64 FR 23773, May 4, 1999; 66 FR 38939, July 26, 2001]